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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/650,004

08/27/2003

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47079-0226

6034

30223 7590 02/21/2007
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EXAMINER

THOMASSON, MEAGAN J

ART UNIT

PAPER NUMBER

3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/650,004

Applicant(s)

GAZDIC ET AL.

Examiner

Meagan Thomasson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/16/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-5,7,9-30,32,34-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Rothschild et al. (US 6,786,818).

Regarding claim 1, Rothschild et al. discloses a method of conducting a wagering game, comprising receiving a wager to play the wagering game, defining a plurality of movable objects that are ostensibly similar, assigning different behavior types to the respective objects such that the objects behave differently from each other, each behavior type including a plurality of behaviors, and for each object, displaying the plurality of behaviors associated with the behavior type assigned to the given object, wherein the ostensibly similar movable objects may be football players, and may display

a plurality of behaviors including kicking, blocking, passing, running, and tackling (col. 4, lines 14-60).

Regarding claims 2,19,27 and 44 the movable objects disclosed by Rothschild may be characters (4, lines 20-60).

Regarding claims 3,20,28 and 45 the objects disclosed by Rothschild may be displayed in a matrix that features a plurality of objects, and therefore may be considered to be displayed in a crowd (Figs. 3-7).

Regarding claims 4 and 29 Rothschild discloses that the different behavior types are randomly assigned to the respective objects in the abstract, line 7.

Regarding claims 5 and 30 wherein the plurality of behaviors include idle behaviors, Rothschild discloses that the behaviors are displayed after the reels have stopped spinning (col. 3, lines 1-3). Because the reels are inactive, or idle, the behaviors displayed by the objects could, in the broadest reasonable interpretation of the term, be considered "idle behaviors", as they occur when the game reels are idle.

Regarding claims 7 and 32 Rothschild discloses that the idle behaviors include interactions between the given object and another one or more of the objects (col. 4, line 14 – col. 6, lines 7).

Regarding claims 9,17,21,23,34,42,46 and 48 Rothschild discloses defining a plurality of possible destinations, defining a plurality of possible movement patterns, said movement patterns including direct movement patterns and evasive movement patterns, assigning one of the movement patterns to a respective object, and display the object going to a selected one of the destinations in accordance with the assigned

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movement pattern. Specifically, Rothschild discloses an embodiment of the wagering game having an American football theme, wherein a player receives and runs with a football in an attempt to score a touchdown, during which time the receiver may run vertically, horizontally, or up and down a reel in an attempt to avoid a tackler (col. 4, line 45 – col. 5, lines 1). Therefore, Rothschild discloses an object going to a destination, i.e. a symbol display area, by means of a movement pattern, wherein the movement pattern may be direct or evasive.

Regarding claims 10 and 22, wherein one of the destinations is selected prior to the step of displaying the object going to a selected one of the destinations, Rothschild discloses that the object path may be chosen randomly or by player input (col. 6, lines 8-14). Thus, the object destination must be chosen by either the processor or the player prior to displaying the object's path. Additionally, Rothschild discloses that the movement pattern may be along a payline (col. 9, lines 41-45), in which case the object destination is again chosen prior to displaying the object going to the selected destination.

Regarding claims 11,25,35,36,47 and 50 wherein the selecting step includes randomly selecting the one of the destinations from the plurality of possible destinations, Rothschild discloses that the destination selection may be randomly chosen (col. 6, lines 8-10; abstract, lines 7-8).

Regarding claims 12,13,37,38 and 49 wherein the movement pattern assigned to a respective object depends upon the selected destination, if the "Touchdown" symbol appears immediately adjacent to a receiver who has possession of the football, the

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receiver will run in a direct movement pattern towards the "Touchdown" symbol.

However, if a tackler or blocker appears immediately adjacent to a receiver who has possession of the football, the receiver may run in an evasive movement pattern towards the "touchdown" symbol (Fig. 7; col. 4, line 58-col. 5, line 2). Thus, the assigned movement pattern depends upon the selected destination.

Regarding claims 14,15,24,39,40 and 43, wherein, for one of objects, a probability is assigned to the respective possible movement pattern and wherein the step of assigning one of the movement patterns to a respective object includes assigning the one of the movement patterns to the given object based on the assigned probability, Rothschild discloses a movement pattern that depends on the selected destination (see rejection of claims 12 and 13). A probability is inherently assigned to the respective movement pattern, as, in the example, there is a probability of a receiver being directly adjacent to a tackler (which would result in an evasive movement pattern), and a probability of a receiver being directly adjacent to a "Touchdown" symbol (resulting in a direct movement pattern).

Regarding claim 16, Rothschild discloses a method of conducting a wagering game comprising receiving a wager to play, defining a plurality of movable objects, defining a plurality of possible behaviors, for a given one of the objects, assigning probabilities to the respective possible behaviors and selecting one of the possible behaviors for the given object. Specifically, Rothschild discloses that the behavior of an object may depend on surrounding objects, e.g. a quarterback may attempt to throw a football to a receiver only if a receiver is present along the same payline (col. 4, lines

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47-50). Therefore, because there is a probability that a receiver will be shown on the same payline as a quarterback, the possible behaviors depend upon this probability. Additionally, Rothschild discloses that a "QBSneak" symbol appearing next to a "Quarterback" symbol enables the quarterback to run with the football instead of throwing it, wherein there is an inherent probability of obtaining a "QBSneak" symbol as determined by the gaming institution. Thus, Rothschild discloses assigning probabilities to object behaviors.

Regarding claims 26,41 and 48 Rothschild discloses a gaming apparatus for conducting a wagering game comprising a value input device for receiving a wager, a processor operative to define a plurality of movable objects that are ostensibly similar, and assign behavior types to the objects such that the objects behave differently from each other, and a display for displaying the objects (col. 2, line 42 – col. 3, line 50).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6,8,31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothschild et al. (US 6,786,818) in view of Timperley (US 7,115,033).

Regarding claims 6 and 31, Rothschild discloses a gaming method and apparatus featuring a plurality of movable objects, the objects having different behavior types and movement patterns, including direct and evasive movement patterns, and idle behaviors. The idle behaviors of the objects disclosed by Rothschild involve interactions between the object and one or more other objects. Rothschild does not specifically disclose that the idle behaviors include isolated actions of the given object. Timperley (US 7,115,033) discloses a gaming console featuring a moveable object that displays isolated actions. Specifically, the object disclosed by Timperley is a sprite, and may roam about the screen during game play or when the game is in an idle state (col. 2, lines 22-59). In some instances, the ghost may "react" to certain conditions, such as "appear to be frightened when it is situated next to a certain game symbol, for example a ghoul" (col. 2, lines 51-59). Because the appearance of being frightened does not affect the game outcome, it may be considered a "solitary" action displayed by the sprite object.

Regarding claims 8 and 33, in addition to isolated actions, Rothschild does not specifically disclose that the idle behaviors displayed by the objects may be independent of any awards associated with the wagering game. Timperley, however,

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discloses that the sprite may exhibit animated behaviors that do not affect the game outcome. For instance, the behavior of appearing frightened, as described above, does not have an affect on any award associated with the wagering game.

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of the plurality of objects displaying idle behaviors as disclosed in Rothschild with the object displaying an isolated action and non-award associated actions as disclosed by Timperley in order to create a more interactive game for the player and to increase player excitement. One would have been motivated to combine these teachings as both Rothschild and Timperley state increased player excitement and interest as an advantage to their respective inventions (Rothschild, col. 1, lines 33-39; Timperley, col. 1, lines 10-16).

Response to Amendment

The examiner acknowledges the amendments made to claims 9,23 and 48.

Response to Arguments

Applicant's arguments with respect to claims 1-50 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pertinent prior art includes Baerlocher et al. (US 6,988,947),

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drawn to a gaming device with bonus scheme having multiple symbol movement and associated awards, as well as DeMar (US 6,520,855), drawn to a gaming machine with a board game theme.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan Thomasson whose telephone number is (571) 272-2080. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Meagan Thomasson
February 19, 2007

 2/20/07
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